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EXAMINER

MORGAN, ROBERT W

ART UNIT PAPER NUMBER

3626

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/440,557

Applicant(s)

LIPSCHER ET AL.

Examiner

Robert W. Morgan

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7,9-13,25-29,33-46,64,65,73,77 and 79-92 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7,9-13,25-29,33-46,64,65,73,77 and 79-92 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/16/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/29/04 has been entered.

Information Disclosure Statement

2. The information disclosure filed 8/16/04 has been received and entered.

Notice to Applicant

3. In the amendment filed 6/29/04 the following has occurred: Claims 2, 4-7, 9-12, 25-27, 29, 33-34, 37-44, 64 and 77 have been amended and claims 79-92 have been added. Now claims 2-7, 9-13, 25-29, 33-46, 64, 65, 73, 77 and 79-92 are presented for examination.

Claim Objections

4. Claim 9 is objected to because of the following informalities: line 2, the word "from" should read "form". Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 2-5, 7, 9-10, 25-29, 33-44, 64-65, 73, 77, 91 and 92 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,385,592 to Angles et al. and U.S. Patent No. 6,018,713 to Coli et al. in view of U.S. Patent No. 5,845,255 to Mayaud.

As per claim 2, Angles et al. teaches a system and method for delivering customized advertisements to users of interactive device including computers connected to on-line services, interactive kiosks (reads on “devices for enabling entry” and “display to the user”), interactive television system and the like (see: column 2, lines 49-62 and abstract). The system includes a consumer computer (10, Fig. 1), a content provider computer (14, Fig. 1) and advertisement provider computer (18, Fig. 1) (reads on “a advertising selecting computer”), which communicate with each other by use of a communication medium (20, Fig. 1) (reads on “a communications network for transmitting information”) (see: column 7, lines 60-64). In addition, Angles et al. further teaches that a consumer directs the consumer computer (12, Fig. 1) to communicate with content provider computer (14, Fig. 1) via the communication medium (20, Fig. 1) and based the consumer’s profile, the advertisement provider computer (18, Fig. 1) selects an appropriate customized advertisement (30, Fig. 1) then sends it to the consumer computer (12, Fig. 1) (reads on “advertising selecting computer compares related information to the advertising information and selects advertising information for display to the user”) (see: column 7, lines 65 to column 8, lines 28). Additionally, Angles et al. teaches that the advertisement provider computer (18, Fig. 4) utilizes a variety of modules to store customer information and to generate customized advertisements (30, Fig. 1). The modules include a registration module (60 Fig. 4), an advertising module (62, Fig. 4), a registration database (68, Fig. 4), an advertisement database (70, Fig. 4) and an accounting database (72, Fig. 4) (reads on

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“database for storing information connected to consumer’s computer”) (see: column 13, lines 34-47 and column 15, lines 32-43).

Angles et al. fails to teach the targeting of healthcare related information and healthcare product information to a computer user as well as the advertising selecting computer transmitting a pharmaceutical advertisement to at least one of the plurality of devices for display via the communication network and, in response to the computer user selecting the displayed pharmaceutical advertisement, prescription form is automatically populated.

Coli et al. teaches a network-based system and method for ordering and cumulative results reporting of medical test at a hospital or physician office that includes advertising for a particular drug treatment or medical device that may be needed by the patient as part of the test results reporting output (see: column 4, lines 25-35 and abstract). In addition, Coli et al. teaches a client computer is programmed to display advertising and product information after receiving a request the user’s computer (see: column 7, lines 25-47).

Therefore, it would have been obvious to a person of ordinary skill in the art the time the invention was made to include the advertisement of drug treatment and medical devices as taught by Coli et al. within the delivery of customized advertisements as taught by Angles et al. with the motivation of trying to successfully promoting a product or service to a targeted audience according a user profile.

Angles et al. and Coli et al. fail to teach in response to selected an pharmaceutical advertisement, a prescription form is automatically populated.

Mayaud teaches a electronic prescription creation system where a list of formulary drugs may be displayed to the physician and if the physician is satisfied with the formulary drugs

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offered by the prescription management system any one formulary drug may be selected and automatically posted to the prescription (see: column 35, lines 38-43 and column 36, lines 26-30).

One of ordinary skill in the art at the time the invention was made would have found it obvious to include the prescription management system as taught by Mayaud with the system of Angles et al. and Coli et al. with the motivation of reducing prescription cost to the patients and to their drug benefit management company or government agency (see: Mayaud: column 4, lines 25-29).

As per claim 3, Angles et al., Coli et al. and Mayaud fail to explicitly teaches healthcare related information comprises information received from a healthcare group consisting of healthcare providers, patients, healthcare service organizations, pharmaceutical companies, healthcare product and service vendors, pharmacies, medical facilities, healthcare information services, medical record databases, government agencies, non-profit organizations, health research organizations and billing companies.

However, Angles et al., Coli et al. and Mayaud teach a network-based system and method for ordering and cumulative results reporting of medical test at a hospital or physician office computers (202, 204, 206, 208, Fig. 2) that includes advertising for a particular drug treatment or medical device that may be needed by the patient as part of the test results reporting output (see: Coli et al.: column 4, lines 25-35, column 9, lines 4-22 and abstract). The Examiner considers modifying the hospital and physician office to include the above mentioned healthcare group an obvious modification to system of Angles et al. and Coli et al.

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One of ordinary skill in the art at the time the invention was made would have found it obvious to include a healthcare group consisting of healthcare providers, patients, healthcare service organizations, pharmaceutical companies, healthcare product and service vendors, pharmacies, medical facilities, healthcare information services, medical record databases, government agencies, non-profit organizations, health research organizations and billing companies within the system as taught by Angles et al., Coli et al. and Mayaud with the motivation of receiving information from a number of people in the medical community to better target advertisement more suited to their profession.

As per claim 4, Angles et al. teaches database of stored non-healthcare related information connected to the advertising selecting computer wherein the advertising selecting computer compares the healthcare related information and the non-healthcare information to the advertising information and selects advertising information for display to the user that is related to the non-healthcare information. This feature is met by the consumer computer (12, Fig. 1) that communicates with the content provider computer (14, Fig. 1) via the communication medium (20, Fig. 1) and based on the consumer's profile, the advertisement provider computer (18, Fig. 1) selects an appropriate customized advertisement (30, Fig. 1) then sends it to the consumer computer (12, Fig. 1) (reads on "advertising selecting computer compares related information to the advertising information and selects advertising information for display to the user") (see: column 7, lines 65 to column 8, lines 28). Angles et al. further teaches that the advertisement provider computer (18, Fig. 4) utilizes a variety of modules to store customer information and to generate customized advertisements (30, Fig. 1). The modules include a registration module (60 Fig. 4), an advertising module (62, Fig. 4), a registration database (68, Fig. 4), an advertisement

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database (70, Fig. 4) and an accounting database (72, Fig. 4) (reads on “database for storing information connected to consumer’s computer”) (see: column 13, lines 34-47 and column 15, lines 32-43).

As per claim 5, Angles et al. teaches the claimed devices is a wireless portable computer device (see: column 10, lines 43-48).

As per claim 7, Angles et al. teaches a system that includes a consumer computer (10, Fig. 1), a content provider computer (14, Fig. 1) and advertisement provider computer (18, Fig. 1), which communicate with each other by use of a communication medium (20, Fig. 1) (see: column 7, lines 60-64).

Angles et al. fails to the advertising selecting computer constructs a medical record for a patient using healthcare information selected from at least one of the healthcare group and transmits the medical record via the communications network to the computer user.

Coli et al. teaches an advertising process that begins when recent test result values are compared to information in a database, using an expert system based on patient demographics, medical history, and the available test results, whether any of the values are abnormal or whether the patient record indicates a potential need for particular medical items. If the patient records indicates a need for particular medical item or drug an advertisement for a drug or other medical device is selected and transmitted to the physician or hospital computers (see: column 16, lines 40-55).

The obviousness for combining the teachings of Coli et al. and Angles et al. are discussed in the rejection of claim 2, and incorporated herein.

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As per claims 9-10, Mayaud teaches a electronic prescription creation system where a list of formulary drugs may be displayed to the physician and if the physician is satisfied with the formulary drugs offered by the prescription management system any one formulary drug may be selected and automatically posted to the prescription (see: column 35, lines 38-43 and column 36, lines 26-30).

As per claim 25, Angles et al., Coli et al. and Mayaud teach a network-based system and method for ordering and cumulative results reporting of medical test at a hospital or physician office (reads on “using patient medical information and healthcare provider information collected from at least one of a plurality of sources”) that includes advertising for a particular drug treatment or medical device that may be needed by the patient as part of the test results reporting output (see: Coli et al.: column 4, lines 25-35 and abstract). In addition, Angles et al., Coli et al. and Mayaud teaches a client computer is programmed to display advertising and product information after receiving a request from the user’s computer (see: Coli et al.: column 7, lines 25-47).

Angles et al., and Coli et al. fail to teach automatically populating a healthcare produce order form.

Mayaud teaches a electronic prescription creation system where a list of formulary drugs may be displayed to the physician and if the physician is satisfied with the formulary drugs offered by the prescription management system any one formulary drug may be selected and automatically posted to the prescription (see: column 35, lines 38-43 and column 36, lines 26-30).

The obviousness of combining the teachings of Mayaud with the system of Angeles et al. and Coli et al. are discussed in the rejection of claim 2, and incorporated herein.

As per claims 26 and 29, Coli et al. teaches a network-based system and method for ordering and cumulative results reporting of medical test at a hospital or physician office that includes advertising for a particular drug treatment or medical device that may be needed by the patient as part of the test results reporting output (see: column 4, lines 25-35 and abstract). Furthermore, a client computer is programmed to display advertising and product information after receiving a request the user's computer (see: column 7, lines 25-47). The Examiner considers the data received and the information requested by the user's computer regarding the display of an advertisement and product information to the users to also include a group consisting of health care provider information, patient medical records, patient prescription records, patient entered information, medical test ordering and test result records, and health information.

As per claim 27, Coli et al. teaches the claimed product advertisement comprises a pharmaceutical advertisements. This feature is met by the network-based system and method for ordering and cumulative results reporting of medical test at a hospital or physician office that includes advertising for a particular drug treatment (pharmaceutical advertisement) or medical device that may be needed by the patient as part of the test results reporting output (see: column 4, lines 25-35 and abstract).

As per claim 28, Angeles et al. teaches the claimed at least one of the plurality of sources comprises collected user entered data and user actions as a user navigates through an electronic web page display (see: column 7, lines 65 to column 8, lines 5).

As per claim 33, Mayaud teaches the claimed wherein populating a healthcare product order form includes initializing parameters of a prescription to values based on the patient medical information (see: column 20, lines 50-67). This limitation is met by patient condition (116, Fig. 5) and the list of drug used to effectively treat the patient's condition (see: column 35, lines 1-17 and Fig. 12).

As per claim 34, Mayaud teaches the claimed further comprising sending of the sending the prescription to patient-selected pharmacy. This limitation is met by the electronic prescription creation system for physician, which can be transmitted across a network for fulfillment by a specified pharmacy according to the patient drug benefit plan (see: column 27, lines 30-50).

As per claim 35, Mayaud teaches that if the prescription contains at least one refill, at least one prescription refill is not sent to the patient-selected pharmacy and is electronically stored for the patient. This feature is met by the electronic prescription system using the Refill field (100, Fig. 3) that shows the number of refills permitted as well as back calculating refills (see: column 26, lines 31-60). The Examiner considers the refill field that stores the number of refills capable of not sending a prescription to the pharmacy if there is only one refill left.

As per claim 36, Mayaud teaches the claimed electronically stored prescription refill is sent to the patient-selected pharmacy upon request of the patient (see: column 27, lines 30-50).

As per claims 37-43, Angles et al. and Coli et al. teaches a network-based system and method for ordering and cumulative results reporting of medical test at a hospital or physician office that includes advertising for a particular drug treatment or medical device that may be needed by the patient as part of the test results reporting output (see: Coli et al.: column 4, lines

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25-35 and abstract). In addition, Coli et al. teaches a client computer is programmed to display advertising and product information after receiving a request from the user's computer (see: Coli et al.: column 7, lines 25-47).

Angles et al. and Coli et al. fail to teach filtering of patient medical information including displaying or not displaying drugs the patient is allergic to.

Mayaud teaches a Problem button (50, Fig. 3) that brings up a patient problem history information screen as shown in Fig. 12 which includes patient's drug related allergies, or drug reactions (filtering) and is activated by the Allergies button (52, Fig. 3) (see: column 20, lines 20-40).

The obviousness for combining the teachings of Mayaud in the system of Angles et al. and Coli et al. are discussed in the rejection of claim 2, and incorporated herein.

As per claim 44, Angles et al. and Coli et al. teaches a network-based system and method for ordering and cumulative results reporting of medical test at a hospital or physician office that includes advertising for a particular drug treatment or medical device that may be needed by the patient as part of the test results reporting output (see: Coli et al.: column 4, lines 25-35 and abstract). In addition, Coli et al. teaches a client computer is programmed to display advertising and product information after receiving a request the user's computer (see: Coli et al.: column 7, lines 25-47).

Angles et al. and Coli et al. fails to teach filtering pharmaceutical advertisements for drugs that are not included in the formulary of the patient's insurance company.

Mayaud teaches that the patient record including the patient's histories can show not only the drugs prescribed, but also the conditions for which they were prescribed, allergies,

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demographics, insurance coverage, treating health care providers, and so on (see: column 21, lines 33-37). In addition, Mayaud teaches a Problem button (50, Fig. 3) that brings up a patient problem history information screen as shown in Fig. 12 which includes patient's drug related allergies, or drug reactions (filtering) and is activated by the Allergies button (52, Fig. 3) (see: column 20, lines 20-40).

The obviousness for combining the teachings of Mayaud in the system of Angles et al. and Coli et al. are discussed in the rejection of claim 2, and incorporated herein.

As per claim 64, Angles et al. teaches a system and method for delivering customized advertisements to users of interactive device including computers connected to on-line services, interactive kiosks, interactive television system and the like (see: column 2, lines 49-62 and abstract). The system includes a consumer computer (10, Fig. 1), a content provider computer (14, Fig. 1) and advertisement provider computer (18, Fig. 1), which communicate with each other by use of a communication medium (20, Fig. 1) (see: column 7, lines 60-64). In addition, Angles et al. further teaches that a consumer directs the consumer computer (12, Fig. 1) to communicate with content provider computer (14, Fig. 1) via the communication medium (20, Fig. 1) and based the consumer's profile, the advertisement provider computer (18, Fig. 1) selects an appropriate customized advertisement (30, Fig. 1) then sends it to the consumer computer (12, Fig. 1) (see: column 7, lines 65 to column 8, lines 28). Additionally, Angles et al. teaches that the advertisement provider computer (18, Fig. 4) utilizes a variety of modules to store customer information and to generate customized advertisements (30, Fig. 1). The modules include a registration module (60 Fig. 4), an advertising module (62, Fig. 4), a registration

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database (68, Fig. 4), an advertisement database (70, Fig. 4) and an accounting database (72, Fig. 4) (see: column 13, lines 34-47 and column 15, lines 32-43).

Angles et al. fails to explicitly teach:

--the claimed displaying targeted healthcare product information, prescription writing habits of a healthcare provider, selecting a healthcare advertisement for display to a user that is related to the at least one of the plurality of sources and transmitting the healthcare advertisement for electronically displaying to the user; and

--the claimed in response to selection of the healthcare advertisement, automatically populating a healthcare product order form.

Coli et al. teaches a network-based system and method for ordering and cumulative results reporting of medical test at a hospital or physician office that includes advertising for a particular drug treatment or medical device that may be needed by the patient as part of the test results reporting output (see: column 4, lines 25-35 and abstract). In addition, Coli et al. teaches a client computer is programmed to display advertising and product information after receiving a request the user's computer (see: column 7, lines 25-47). Furthermore Coli et al. teaches at block 1710, that the computer using a communications network, such as the internet or a private network is used to create a complete cumulative results reporting record for that patient (see: column 18, lines 3-8).

The obviousness for combining the teachings of Coli et al. and Angles et al. are discussed in the rejection of claim 2, and incorporated herein.

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Angles et al. and Coli et al. fail to teach the prescription writing habits of a healthcare provider and in response to selection of the healthcare advertisement, automatically populating a healthcare product order form.

Mayaud teaches a manually maintainable problem record maintenance screen for physician to maintain their own personal customized prescription, diagnosis, allergy or other useful lists to supplement the automatically maintained system lists (see: column 44, lines 19-48 and Fig. 14). In addition, Mayaud teaches an electronic prescription creation system for physician which can be transmitted across a network for fulfillment by a specified pharmacy according to the patient drug benefit plan (see: column 27, lines 30-50). Moreover, Mayaud teaches a electronic prescription creation system where a list of formulary drugs may be displayed to the physician and if the physician is satisfied with the formulary drugs offered by the prescription management system any one formulary drug may be selected and automatically posted to the prescription (see: column 35, lines 38-43 and column 36, lines 26-30).

The obviousness for combining the teachings of Mayaud in the system of Angles et al. and Coli et al. are discussed in the rejection of claim 2, and incorporated herein.

As per claim 65, it is rejected for the same reasons set forth in claim 26.

As per claims 73 and 77, Angles et al., Coli et al. and Mayaud all use a computer system with software to run all the programs performed on the system (see: Angles et al.: column 3, lines 21-30, Coli et al. column 9, lines 4-17 and Mayaud column 45, lines 10-28, column 46, lines 23-31 and Fig. 16).

As per claims 91 and 92, they are rejected for the same reasons set forth in claims 2 and 25.

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7. Claims 6, 11-13 and 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,385,592 to Angles et al. and U.S. Patent No. 6,018,713 to Coli et al. and U.S. Patent No. 5,845,255 to Mayaud in view of Official Notice.

As per claim 6, Angles et al., Coli et al. and Mayaud fail to explicitly teach the device is selected from the group consisting of web TV devices, personal digital assistant devices, personal computers, handheld portable computers, portable computers, wireless telephone devices and wireless personal access devices.

However, Angles et al., Coli et al. and Mayaud teaches that the consumer computer (12, Fig. 1) could be a computer workstation, a local area network of computer, an interactive television, an interactive kiosk, a personal digital assistant, an interactive wireless communications device or the like (see: Angles et al.: column 10, lines 43-48). It is well known in the computer industry to use the above-mentioned devices to communicate with a network. Therefore, it would have been obvious to a person of ordinary skill in the art the time the invention was made to include the above-mentioned devices with the system as taught by Angles et al., Coli et al. and Mayaud with the motivation of providing appropriate means for user to communicate via a network.

As per claims 11-12, Angles et al., Coli et al. and Mayaud teach the use of an advertising module (62, Fig. 4) that determines the appropriate amount to debited or credited to accounts of the content provider, customer and advertiser for viewing an advertisement and then stores the advertising audit information in the accounting database (72, Fig. 72) (see: Angeles et al.: column 21, lines 9-36 and Fig. 8).

Although Angles et al., Coli et al. and Mayaud fail to explicitly teach calculating a revenue amount to be paid to the healthcare provider for using the computer system and referring patients to a health information website. It is well known in the medical industry that a fee is paid by the users (“healthcare provider”) to the advertiser for directing individuals (“patient”) to particular website with the useful information of a product or service. Therefore, it would have been obvious to a person of ordinary skill in the art the time the invention was made to calculate a revenue amount for referring patient to website with the system as taught by Angles et al., Coli et al. and Mayaud with the motivation of providing relevant and significant information to an individual informing him of the new or improved product or service.

As per claim 13, Angles et al., Coli et al. and Mayaud teach a wide range of interactive communication mediums such as interactive television networks, telephone networks, wireless data transmission systems, two-way cable systems, customized computer networks, interactive kiosk networks, automatic teller machine networks, and the like (see: Angeles et al.: column 9, lines 37-43).

Although Angles et al., Coli et al. and Mayaud fail to teach a communications network selected from the group consisting of a global communications network, a communications inter-network, a wide area network, a local area network, a wireless telephone network, a satellite network, an interactive television network and a cable network.

It is well known in the computer industry that the above-mentioned networks are used to connect a group of computers using a communication medium such a modem. Therefore, it would have been obvious to a person of ordinary skill in the art the time the invention was made to include a group consisting of the above mentioned networks with the system as taught by

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Angles et al., Coli et al. and Mayaud with the motivation allowing a high volume of computers to transmit and receive information via a high speed network.

As per claims 45-46, Angles et al., Coli et al. and Mayaud teaches the use of an advertising module (62, Fig. 4) that determines the appropriate amount to debited or credited to accounts of the content provider, customer and advertiser for viewing an advertisement and then stores the advertising audit information in the accounting database (72, Fig. 72) (see: Angeles et al.: column 21, lines 9-36 and Fig. 8).

Although Angles et al., Coli et al. and Mayaud fail to explicitly teach prioritizing pharmaceutical advertisement display order according to an amount of revenue received for displaying each pharmaceutical advertisement. It is well known in the medical industry that a fee is paid by the users to the advertiser for directing the user to a website including pharmaceutical information of that company's particular product or service. Therefore, it would have been obvious to a person of ordinary skill in the art the time the invention was made to calculate a revenue amount for referring patient to website with the system as taught by Angles et al., Coli et al. and Mayaud with the motivation of providing relevant and significant information to an individual informing him of the new or improved product or service.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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9. Claims 79-85 and 86-89 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 5,845,255 to Mayaud.

As per claim 79, Mayaud teaches a computer-implemented method for preparing a prescription, the method comprising:

--the claimed providing a pharmaceutical advertisement to an interface device is met by the drug list view by the physician on screen (see: column 35, lines 1-17); and

--the claimed populating a prescription form based on selection of the pharmaceutical advertisement via the interface device is met by the prescription management system providing a list of formulary drugs displayed to the physician and if the physician is satisfied with the formulary drugs offered by the prescription management system any one formulary drug may be selected and automatically posted to the prescription (see: column 35, lines 38-43 and column 36, lines 26-30).

As per claims 80 and 81, Mayaud teaches the claimed populating the prescription form includes initializing prescription parameters wherein the prescription parameters are selected from the group consisting of dosage, frequency, form and duration is met by the prescription quantification that include form, size, and amount (see: column 26, lines 10-38 and Fig. 3).

As per claims 82 and 83, Mayaud teaches the claimed prescription parameters are determined based on information associated with a patient and the information associated with the patient includes data associated with patient weight. The feature is met by the system calculating or suggesting effective dosage for a patient according to a dosage-relevant patient characteristics, for example, height weight, age, sex, pregnancy and the like (see: column 26, lines 39-46).

As per claims 84 and 85, Mayaud teaches the claimed populating the prescription form includes providing treatment regimen and the treatment regimen includes strength, quantity, method of delivery, frequency, and duration of treatment. This limitation is met the prescription quantification that include form, size, and amount (see: column 26, lines 10-38 and Fig. 3).

As per claims 87-88, Mayaud teaches the claimed receiving patient medical data from the interface device and the patient medical data includes data associated with a patient condition. This limitation is met by the patient condition (116, Fig. 5) and the list of drug used to effectively treat the patient's condition entered via desktop computers with different input devices such keyboards, touch pads or touch screen (see: column 35, lines 1-17 and Fig. 12 and column 7, lines 46-67).

As per claim 89, Mayaud teaches the claimed providing the pharmaceutical advertisement is based on the patient medical data. This limitation is met by patient condition (116, Fig. 5) and the list of drug used to effectively treat the patient's condition (see: column 35, lines 1-17 and Fig. 12).

10. Claims 86 and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,845,255 to Mayaud and U.S. Patent No. 6,385,592 to Angeles et al.

As per claim 86, Mayaud fails to teach the claimed crediting a healthcare provider account based on selection of the pharmaceutical advertisement.

Angeles et al. teaches the use of an advertising module (62, Fig. 4) that determines the appropriate amount to debited or credited to accounts of the content provider, customer and advertiser for viewing an advertisement and then stores the advertising audit information in the accounting database (72, Fig. 72) (see: Angeles et al.: column 21, lines 9-36 and Fig. 8).

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One of ordinary skill in the art at the time the invention was made would have found it obvious to an advertising module as taught by Angles et al. with the prescription creation system as taught by Mayaud with the motivation of providing relevant and significant information to an individual informing him of the new or improved products or services.

As per claim 90, Mayaud teaches a computer system comprising:

--the claimed processor is met by intelligent data processing device having a processor (see: column 53, lines 62-67); and

--the claimed storage accessible by the processor, the storage including:

--the claimed program instructions operable by the processor to provide a pharmaceutical advertisement to the interface device is met by the drug list view by the physician on screen (see: column 35, lines 1-17). In addition, the program language used to write system software depends upon the environment of the various system components (see: column 51, lines 12-25); and

--the claimed program instructions operable by the processor to populate a prescription form based on selection of the pharmaceutical advertisement via the interface device is met by the prescription management system providing a list of formulary drugs displayed to the physician and if the physician is satisfied with the formulary drugs offered by the prescription management system any one formulary drug may be selected and automatically posted to the prescription (see: column 35, lines 38-43 and column 36, lines 26-30 and column 51, lines 12-25). In addition, the program language used to write system software depends upon the environment of the various system components (see: column 51, lines 12-25).

Response to Arguments

11. Applicant's arguments filed 6/29/04 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response 9/3/02.

(A) In the remarks, Applicants argue in substance that, (1) Neither Angles nor Coli mention prescriptions, described the act of ordering a drug or pharmaceutical, or describe any process synonymous with or relating to initiating a prescription; (2) the primary reference of Angles is related to computer systems and advertising in general and has no nexus or reasonable relationship to the healthcare industry; (3) Coli lacks any reference or description of healthcare prescription fulfillment system and the reliance on Mayaud to disclose this feature can only come from applicant's own disclosure; (4) Mayaud fail to teach or remotely suggest automatically populating a prescription form in response to selection of an advertisement; and (5) Coli fails to disclose a prescription, initializing a prescription, populating a prescription form or any other synonymous of a prescription process.

(B) In response to the Applicant's arguments, (1) Neither Angles nor Coli mention prescriptions, described the act of ordering a drug or pharmaceutical, or describe any process synonymous with or relating to initiating a prescription. The Examiner respectfully submits that the Mayaud reference, and not Angles and Coli, *per se*, that was relied upon for the specific teaching of a electronic prescription creation system using a list of formulary drugs which displayed to the physician and if the physician is satisfied with the formulary drugs offered by the prescription management system any one formulary drug may be selected and automatically posted to the prescription (see: column 35, lines 38-43 and column 36, lines 26-30). Angles and

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Coli was relied on for primarily teaching of a system and method for delivering customized advertisements to users of interactive device. Thus, the proper combination of the applied references would be the incorporation of Mayaud's system for electronic prescription creation with the system as taught by Angles and Coli.

(C) In response to the Applicant's arguments, (2) the primary reference of Angles is related to computer systems and advertising in general and has no nexus or reasonable relationship to the healthcare industry and (3) Coli lacks any reference or description of healthcare prescription fulfillment system and the reliance on Mayaud to disclose this feature can only come from applicant's own disclosure. The Examiner respectfully submits that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In addition, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Furthermore, it has been held that a prior art reference must either be in the field of Applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the Applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

Firstly, the Examiner respectfully submits that the prior art references are in the field of

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Applicant's endeavor. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

Applicant's invention pertains to a computer system for displaying targeted healthcare advertisement to a computer user. The Examiner respectfully submits in this case that the primary reference, Angles et al. was relied upon for teachings a system and method for delivering customized advertisements to users of interactive device including computers connected to on-line services, interactive kiosks, interactive television system and the like (see: column 2, lines 49-62 and abstract). Coli et al. was relied on for teaching a network-based system and method for ordering and cumulative results reporting of medical test at a hospital or physician office that includes advertising for a particular drug treatment or medical device that may be needed by the patient as part of the test results reporting output (see: column 4, lines 25-35 and abstract). In addition, Coli et al. teaches a client computer is programmed to display advertising and product information after receiving a request the user's computer (see: column 7, lines 25-47). Thus, it is the position of the Examiner that Angles et al. and Coli et al. are in the field of the Applicant's endeavor (i.e., they relate to the deliver of customized advertisement and the displaying of advertising and product information after receiving a request the user's computer), and are therefore analogous art.

Secondly, the Examiner respectfully submits that the prior art references are reasonably pertinent to the particular problem with which the Applicant was concerned. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Angles et al. and Coli et al. are directed to solving the problem of delivering customized advertisements after receiving a request from the user (see: Angles et al.: column 2, lines 49-62 and abstract and Coli et al. column 4, lines 25-35 and column 7, lines 25-47). The present application also seeks to solve a similar problem,

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namely, developing a system of website "preemptive customization" for health care patients along with traditional site customization by the user (see: page 7, lines 14-16 of specification). Thus, it is the position of the Examiner that the prior art references are reasonably pertinent to the particular problem with which the Applicant was concerned and the applied references are analogous art as they all relate to improving the deliver and display of customized healthcare advertisement to the user.

(D) In response to the Applicant's arguments, (4) Mayaud fail to teach or remotely suggest automatically populating a prescription form in response to selection of an advertisement and (5) Coli fails to disclose a prescription, initializing a prescription, populating a prescription form or any other synonymous of a prescription process. The Examiner respectfully submits Coli et al. is relied on for teaching a client computer programmed to display advertising and product information after receiving a request the user's computer (see: column 7, lines 25-47). Mayaud is relied on for teaching a electronic prescription creation system where a list of formulary drugs may be displayed to the physician and if the physician is satisfied with the formulary drugs offered by the prescription management system any one formulary drug may be selected and automatically posted to the prescription (see: column 35, lines 38-43 and column 36, lines 26-30). This clearly indicates Mayaud describes a prescription form being populated in response to a selected advertisement by a user.

Conclusion

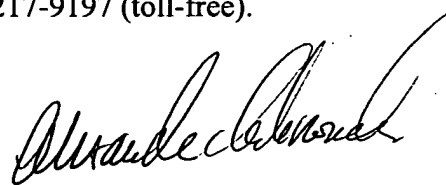
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (703) 605-4441. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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PRIMARY EXAMINER